

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00929R

Parcel No. 291/00367-350-019

Vishanta Trust,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on September 23, 2016. Vipin Bhavsar represented the Vishanta Trust. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Vishanta is the title-holder of a residential, split-level home located at 1445 NW 131st Street, Clive. Built in 1992, it has 3233 square feet of above-grade finish and a 1783 square-foot basement with 1000 square-feet of living-quarter quality finish. The site is 0.34 acres. (Ex. A).

The property's January 1, 2015 assessed value was set at \$421,000, allocated as \$64,700 in land value and \$356,300 in building value. On its protest to the Board of Review, Vishanta claimed that its assessment was not equitable as compared with assessments of other like property, that it was assessed for more than authorized by law, and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a-b) and (d). The Board of Review reduced the assessment to \$403,700. Vishanta then appealed to PAAB, reasserting a claim of equity and a claim of over assessment, stating \$274,804 is the correct assessment for the subject property.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

I. Inequity Claim

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing:

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

ii. Findings of Fact

Vipin Bhavsar testified on behalf of Vishanta and asserted the assessment has increased unreasonably from 2014 to 2015. Bhavsar explained his assessment increased by 33% from 2014 to 2015, whereas the nationwide average rate of increase was only 3%. (Appeal). First, we are unable to discern how Vishanta originally concluded its assessment increased 33%. Considering the reduced assessment set by the Board of Review, the assessment increased by roughly 22% for 2015. Regardless, Bhavsar believes the property’s assessment should not increase more than 3-4% from the 2014 valuation.

Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified on behalf of the Board. She explained that in June 2014 a building permit was taken out for the subject property, which triggered a re-assessment. The building permit was for the addition of 1000 square-feet of living-quarter-quality basement finish. This addition increased the cost of the improvements by \$40,560 and explains, in part, the increase in the 2014 to 2015 assessments. (Ex. B).

The record reflects that Vishanta did not submit any new evidence in support of its claims, and instead relies totally on the evidence it submitted to the Board of Review.

Vishanta submitted four properties it considered for its equity claim (Certified Record); however, one of the properties (14387 Lakeview Drive) is located in Dallas County. (Ex. E). To support an equity claim, only sales from the same jurisdiction, in this case Polk County, can be considered and we therefore decline to include this property in our analysis of the evidence. The following table summarizes Vishanta's equity comparables.

Address	2015 Total Assessed Value	Land Assessed Value	Building Assessed Value	Above Ground Living Area (GLA)	Basement Finish	Building Assessed Value/Sq Ft of Total Finish
Subject	\$403,700	\$64,700	\$339,000	3233	1000 LQ	\$80.09
13533 Lake Shore Dr	\$329,700	\$63,300	\$266,400	2995	None	\$88.95
14005 Lake Shore Dr	\$330,700	\$80,500	\$250,200	3260	180 Avg +	\$72.73
13730 Lakeview Dr	\$330,100	\$75,400	\$254,700	2921	None	\$87.20

There is no indication that either of the comparable properties located on Lake Shore Drive have recently sold. Therefore, we are unable to develop an assessment/sales ratio with these comparables. The property on Lakeview Drive sold in September 2014 for \$365,000. This indicates an assessment/sales ratio of 1.01, which suggests the assessment of this property is at or near its market value.

II. Overassessment Claim

i. Applicable Law

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Vishanta contends the subject property's January 1, 2015 assessed value is higher than its market value. There is only one recent sale in the record that may be considered as a market value comparable, 13730 Lakeview Drive. However, this sale was not adjusted for the differences between it and the subject property. Nor was this sale used to conclude a fair market value for the subject property.

Conclusions of Law

Under Iowa law an appellant is required to prove the correct market value of the subject property is less than its assessment value. However, we find the record lacks any fair market valuations for the subject property, such as a current appraisal or cost analysis.

To prove an inequity claim, Vishanta had to show the assessor did not apply assessing methods uniformly to the subject property and other similarly situated or comparable properties. Vishanta did not attempt to show the assessor is applying an assessment in a non-uniform manner under *Eagle Foods*. And, it has not submitted sufficient evidence to show the property is inequitably assessed under *Maxwell*. The *Maxwell* equity analysis typically requires comparing prior year sales (2014) to the current assessment (2015) and analyzing the ratio between the two. Moreover, more than one comparable is required. Regardless, the single sale Vishanta did submit results in an assessment/sales ratio of 1.01, suggesting its assessment is equal to or very near the market value.

Based on the foregoing, and by a preponderance of all evidence in the record, we find Vishanta failed to show the subject property is inequitably assessed or over assessed.

Order

PAAB ORDERS the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015).

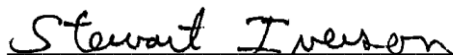
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 2nd day of November, 2016.



Camille Valley, Presiding Officer



Stewart Iverson, Board Chair



Karen Oberman, Board Member

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